



North Carolina Department of Environment and Natural Resources

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Governor

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Update on Gravel Legislation and Rulemaking

1/1/2015

Senate Bill 734 was signed into law on September 18, 2014 and is now [Session Law 2014-120](#). Section 45 pertains to gravel. In brief, the session law amended the definition of “built-upon area” in [NCGS 143-214.7](#) such that “gravel” was no longer exempted from being considered “built-upon area.” The bill also prohibited the Environmental Management Commission (EMC) from defining the term “gravel” in the context of its stormwater programs. Subsequent to the passage of this legislation, the EMC adopted permanent changes to [Rule 15A NCAC 2H .1002](#) (Definitions), incorporating the revisions required by SL 2014-120.

The definition of “built-upon area” that state stormwater programs are now operating under is:

“Built-upon area” means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. “Built-upon area” does not include a slatted deck or the water area of a swimming pool.

Here’s a review of gravel’s journey through law and rule in NC:

- **August 23, 2013** -- SL 2013-413 amended NCGS 143-214.7 (stormwater programs), removing “gravel” from the definition of “built-upon area.” DENR began implementing the definition of “built-upon area” as revised by SL 2013-413.
- **March 28, 2014** -- In response to SL 2013-413, the EMC passed a temporary amendment to Rule 15A NCAC 2H .1002 (stormwater definitions), defining the term “gravel.” DENR began implementing the definition of “gravel” as written in the temporary rule.
- **September 18, 2014** -- SL 2014-120 amended NCGS 143-214.7 such that gravel was no longer exempted from being considered “built-upon area.” DENR began implementing the definition of “built-upon area” as revised by SL 2014-120 and stopped implementing the definition of “gravel.”

The definition of “built-upon area” in NCGS 143-214.7 applies to all the state’s stormwater programs, including:

- ☒ Water Supply Watershed;
- ☒ NPDES Phase 2 Stormwater;
- ☒ Coastal Stormwater; and
- ☒ USMP.

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- **January 1, 2015** – The EMC’s permanent rule 15A NCAC 2H .1002 was adopted to replace the temporary rule. It incorporates the revisions required by SL 2014-120. Refer to [15A NCAC 2H .1002](#) for the current definition of “built-upon area.”
- Local governments who have delegated stormwater programs such as Phase 2/Water Supply do not need to take any action as a result of these legislative actions or rulemakings ***unless*** your ordinance currently exempts gravel from built-upon area.
- Note that this statute and associated rule (15A NCAC 2H .1002) apply only to stormwater programs. They do not affect laws and rules relating to forestry or agriculture operations or sediment and erosion control programs.

If you have questions, please contact Julie Ventaloro at (919) 807-6370 or julie.ventaloro@ncdenr.gov.